

May 5, 2004

Kenneth Glick
Legal Division
Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, CA 95814
Via Fax: 916-322-6440

Re: FPPC Agenda Item 9---May 13, 2004: Discussion of Proposed
Regulatory Action to Address General Plan Decisions: Amendment of Reg.
18704.2 (Direct/Indirect Involvement) and Adoption of Reg. 18707.10
("Public Generally" Exception)

Mr. Glick

I have been following the County of San Diego's current general plan update since the spring of 1999. I have no economic interest in the outcome. I am interested in the process, and can be quite annoying when I think it is less than transparent, which it is most of the time.

The first problem that I have with the County of San Diego's request to broaden and/or soften, in my opinion, the conflict of interest standards, is that they appear to be the only large county requesting changes and amendments.

I checked the footnotes on your online documents. I did not see the County of Riverside represented. They are undergoing a similarly large general plan update, so why aren't they having a problem with the existing regulations?

In the Sansone Advice Letter, the county feigned that there was no way to say how much economic effect the proposed downzoning and upzoning will have. That is most self-serving.

Winston Elton, Accredited Senior Appraiser, has stated publicly that \$3 billion in value will be delivered to the upzoned with a significant portion of that amount to be extracted from the downzoned.

There are lots of special interests lobbying the Supervisors in regard to this, unfortunately the small individual property owners have no representation in

Kenneth Glick

FPPC—May 13, 2004, Item 9

May 5, 2004

Page 2

the process. This downzoning and upzoning is a big deal, not to be shuffled aside by the county in this discussion.

There is one other misstatement in that letter that irritated me. The county says that they are going to have a Transfer Development Rights (TDR) program. This appears to be a way to say that they are going to mitigate the massive downzoning that they are contemplating. They have always opposed TDRs.

The only TDR program that is proposed, is for a small area called the Ramona Grasslands. Those TDRs are proposed to be transferred within that area to save the grasslands from development. No other TDR programs are proposed.

There "may" be a Purchase Development Rights (PDR) program in the future, but it is very shaky. No one wants it, environmentalists nor building industry, including the county, whatever they say.

There is a very weak equity mechanism proposal going forward with the next map on May 19, 2004. This map is supposed to be the final iteration of the density placement so the Environmental Impact Report (EIR) can proceed. The PDR program, as proposed, would only effect environmentally sensitive lands and agriculture land, with agricultural land prioritized as a distant second.

Property owners that participate may have to wait 20 or 30 years to be paid for their development credits. Most of the other property owners in the county would not be eligible to participate. Forget about any equity mechanism program mitigating the massive downzoning.

Step 4 Direct/Indirect Involvement (Real Property)

How do we know that those broad, policy-making general plan decisions that were made previously did not result in a direct influence on the public official's real property? The cumulative impact of those incremental

Kenneth Glick
FPCC---May 13, 2004, Item 9
May 5, 2004
Page 3

decisions caused the public official's property to materially effected. It is a case of the causing the effect then wanting to be excused from it.

Step 7 Public Generally Exception (All Economic Interests)

About the public official's ability to blend in with the populous, and be indistinguishable. In April 2002, the first draft density map for the County of San Diego's general plan update came forward. One of the general plan advisory groups, consisting of the building industry and the environmental community, constructed this map. It showed where the people were going to go and where they weren't going to go.

I am told that there was a quantifiable earth shaking roar that came out of County Administration Center, where all the Supervisors reside, when that April 2002 map arrived there. The walls are quite thin.

Supervisor Horn had a Rumpelstiltskin moment over the lack of density placed on his parcels. The County had used a computer mapping system that was indiscriminate in where it placed its shades of green indicating downzoning.

County staff hot footed it out to actually look at Supervisor Horn's property. This is not something that they deemed appropriate, at the time, for other recipients of downzoning.

Amazingly, they discovered that they had made a mistake. Supervisor Horn's parcels received a more appropriate density on the next map.

To make sure that his neighbors were not cranky, the county made sure that his neighbors had "appropriate" density too. Changing the surrounding density to match Supervisor Horn's also provided evidence that no "island" of inappropriate density had been created in the process.

Now, I'm sure that the county will dispute my anecdotal report. So be it

Kenneth Glick

FPPC-- May 13, 2004, Item 9

May 5, 2004

Page 4

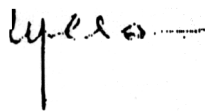
The question remains even if this was totally fabricated, which it isn't, how do these changes, amendments to Step 4 and 7, protect the public against the special treatment that a public official may request and receive prior to a vote on his property and the general plan, in general?

Nothing about the existing conflict of interest tests or standards should be changed in regard to general plan votes. The public has a hard enough time getting a square deal from these folks without making it easier for public officials to manipulate the system.

I am sending along a copy of the Statement of Proceedings for the May 21, 2003, County of San Diego, Board of Supervisors' meeting where Supervisors Horn and Jacob recused themselves via the 500' rule. They were out of the room about 10 minutes, then came back and participated in the rest of the hearing. The world did not come to an end.

have signed up for the Interested Parties notification to follow this issue

Sincerely,



Charlene Ayers
10801 Dewitt Court
El Cajon, CA 92020
619-442-8046
619-442-3724 Fax
char.ayers@att.net

*APPC - MAY 15 2004 11:14**AYERS RECORD*

STATEMENT OF PROCEEDINGS
COUNTY OF SAN DIEGO BOARD OF SUPERVISORS
REGULAR MEETING - PLANNING AND LAND USE MATTERS
WEDNESDAY, MAY 21, 2003, 9:00 AM
Board of Supervisors North Chamber
1600 Pacific Highway, Room 310, San Diego, California

MORNING SESSION: - Meeting was called to order at 9:10 a.m.

Present: Supervisors Greg Cox, Chairman; Dianne Jacob, Vice Chairwoman; Pam Slater; Ron Roberts;
Bill Horn; also Thomas J. Pastuszka, Clerk.

Approval of Board of Supervisors Statement of Proceedings/Minutes for meetings of April 30, 2003 and
May 7, 2003.

ACTION:

ON MOTION of Supervisor Jacob, seconded by Supervisor Roberts, the Board of Supervisors approved
the Statement of Proceedings/Minutes for the meetings of April 30, 2003 and May 7, 2003.

AYES: Cox, Jacob, Roberts, Horn

ABSENT: Slater

AFTERNOON SESSION: Meeting was called to order at 2:09 p.m.

Board of Supervisors' Agenda Items

STONECREEK ESTATES: APPEAL OF PLANNING COMMISSION DECISION TO DENY
AUTHORIZATION TO PROCESS A GENERAL PLAN AMENDMENT, PAA 02-002, RAMONA
COMMUNITY PLAN AREA
(CARRYOVER FROM 3/12/03, AGENDA NO. 1)

2. NOTICED PUBLIC HEARING:
GENERAL PLAN 2020: PROJECT UPDATE AND CONFIRMATION OF DIRECTION
3. MEMORIAL DAY RESOLUTION
4. SET HEARING FOR 6/18/03
PAUMA VALLEY COUNTRY CLUB OPEN SPACE EASEMENT VACATION, VAC 02-003, PALA-
PAUMA SUBREGIONAL PLAN AREA
5. APPROVAL OF AMENDED TRANSNET PROGRAM AND COUNTY OF SAN DIEGO ELEMENT O
THE REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM
6. ADVERTISE AND AWARD CONTRACT FOR ASPHALT RESURFACING ON VARIOUS COUNTY
ROADS
(4 VOTES)

5/21/03

*PPC MAY 13, 2003
AYES - 6 CREEK*

SUBJECT: STONECREEK ESTATES: APPEAL OF PLANNING COMMISSION
DECISION TO DENY AUTHORIZATION TO PROCESS A GENERAL PLA
AMENDMENT, PAA 02-002, RAMONA COMMUNITY PLAN AREA
(DISTRICT: 2)
(CARRYOVER FROM 3/12/03, AGENDA NO. 1)

OVERVIEW:

On March 12, 2003 (1), at the request of the applicant, this project was continued by the Board of Supervisors to May 21, 2003.

This is a request to continue the hearing to June 18, 2003. The applicant has indicated that they concur with the continuance.

FISCAL IMPACT:

N/A

RECOMMENDATION:

CHIEF ADMINISTRATIVE OFFICER

Continue the hearing to June 18, 2003.

ACTION:

ON MOTION of Supervisor Slater, seconded by Supervisor Roberts, the Board of Supervisors continued the item to June 18, 2003 at the request of the Chief Administrative Officer, on Consent.

AYES: Cox, Jacob, Slater, Roberts, Horn

2.

SUBJECT: NOTICED PUBLIC HEARING:
GENERAL PLAN 2020: PROJECT UPDATE AND CONFIRMATION OF
DIRECTION (DISTRICT: ALL)

OVERVIEW:

General Plan 2020 is a comprehensive update of the San Diego County General Plan establishing future growth and development patterns for the unincorporated areas of the County. It will replace the existing General Plan, including all regional elements and a community or subregional plans. Other components of General Plan 2020 include adjustments to community planning area boundaries, replacing residential lot size requirements with a density-based approach, and identifying items that must be change within a reasonable timeframe following plan adoption to maintain consistency between the General Plan and County ordinances or policies. Agricultural Preserves will be modified to reflect lands under Williamson Act contracts.

The purpose of the Board of Supervisors hearing is to receive Board endorsement for the direction taken by the General Plan 2020 update on the following products: Planning Concepts, Draft Regional Goals and Policies, Land Use Framework, Regional Structure

5/21/03

*1/17/03 - MAY 15, 2003**A. J. K. S. - G. L. K.*

Map, Regional Land Use Distribution Map (December 2002 Working Copy Map and related Population Forecast), and Statements of Legislative Intent. If the Board of Supervisors endorses the direction of this work, then full development of General Plan 2020 — including the preparation of a regional road network, Draft Regional Elements, Draft Community and Subregional Plans, and Draft Environmental Impact Report — will proceed. All products submitted for review during this hearing are subject to further refinements and to future review by the Board of Supervisors as part of a complete package of General Plan 2020 products.

FISCAL IMPACT

N/A

RECOMMENDATION:**PLANNING COMMISSION:**

1. Support the direction of the General Plan 2020 project, and accept the following products for continued refinement and progress:
 - General Plan 2020 Planning Concepts (previously endorsed by the Board of Supervisors)
 - Draft Regional Goals and Policies
 - Land Use Framework
 - Regional Structure Map
 - Regional Land Use Distribution Map
 - Statements of Legislative Intent
2. Direct the Chief Administrative Officer to review the list of Planning Commission referrals and forward them to the Board of Supervisors.

CHIEF ADMINISTRATIVE OFFICER:

1. The Chief Administrative Officer concurs with the Planning Commission recommendation. The Chief Administrative Officer further recommends that staff evaluate the list of property referrals made during the Planning Commission meetings, review staff recommendations with the Community Planning and Sponsor Groups and Interest Group, and return to the Planning Commission and Board of Supervisors with recommendations.
2. In order to be consistent with advice from the State of California Fair Political Practices Commission (FPPC), the Chief Administrative Officer recommends that properties owned by Supervisor Diann Jacob and Supervisor Bill Horn, along with properties located within a 500-foot radius of properties owned by Supervisors Jacob and Horn, be segregated out for separate action to avoid any appearance of conflict of interest. The Chief Administrative Officer further recommends:
 - a. Acceptance of the SR-4 General Plan designation, which allows a density of 1 dwelling unit per 4 acres, and the RL-40 designation, which allows a density of 1 dwelling unit per 40 acre for properties in Jamul/Dulzara owned by Supervisor Dianne Jacob. The Chief Administrative Officer further recommends acceptance of the SR-2 designation, which allows a density of dwelling unit per 2 acres; the SR-4 designation; the SR-10 designation, which allows a density of 1 dwelling unit per 10 acres; and the RL-40 designation on properties located within a 50 foot radius of Supervisor Jacob's properties in Jamul/Dulzara.

5/21/03

1' NDC - MAY 13, 2003
#9
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- b. Acceptance of the SR-2 General Plan designation, which allows a density of 1 dwelling unit per 2 acres, for properties in Valley Center owned by Supervisor Bill Horn. The Chief Administrative Officer further recommends acceptance of the same SR-2 designation on all b one property located within the 500-foot radius, and the RL-20 designation, which allows density of 1 dwelling unit per 20 acres, on one property located within a 500-foot radius Supervisor Horn's properties in Valley Center.

If public testimony and deliberations are not completed on May 21, 2003, this item should be continued to the Board of Supervisors hearing on June 11, 2003.

2.1 ACTION:

Supervisor Jacob disclosed for the record properties owned by her and indicated she would abstain from participating in the discussion and vote on her properties and properties within 500 feet of her properties. She then left the Chamber. Staff then made a presentation on her properties and properties within 500 feet of her properties. ON MOTION of Supervisor Horn, seconded by Supervisor Roberts, the Board of Supervisors accepted staff's recommendation in paragraph 2a for further review.

AYES: Cox, Slater, Roberts, Horn
ABSENT: Jacob

2.2 ACTION:

Supervisor Horn disclosed for the record properties owned by him and indicated he would abstain from participating in the discussion and vote on his properties and properties within 500 feet of his properties. He then left the Chamber. Staff then made a presentation on his properties and properties within 500 feet of his properties. ON MOTION of Supervisor Jacob, seconded by Supervisor Roberts, the Board of Supervisors accepted staff's recommendation in paragraph 2b for further review.

AYES: Cox, Jacob, Slater, Roberts
ABSENT: Horn

2.3 ACTION:

ON MOTION of Supervisor Jacob, seconded by Supervisor Horn, the Board of Supervisors directed the Chief Administrative Officer to conduct comprehensive groundwater study for the Pine Valley area.

AYES: Cox, Jacob, Slater, Roberts, Horn

2.4 ACTION:

ON MOTION of Supervisor Jacob, seconded by Supervisor Slater, the Board of Supervisors continued the Hearing to June 11, 2003, 9:00 a.m.

AYES: Cox, Jacob, Slater, Roberts, Horn

3. SUBJECT: MEMORIAL DAY RESOLUTION (DISTRICT: ALL)

OVERVIEW:

5/21/03